Ethics for Texas CPAs – It's a Matter of Choice

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Learning Objectives

• Explore the foundations and philosophies of ethics
• Understand the Texas State Board’s Rules of Professional Conduct and the core values of our profession
• Practice applying ethical judgment in making choices appropriate for the profession and the public
• Identify the components of fraud
• Determine improvement opportunities for protecting the brand

Session Topics

• Ethical Principles and Values
• Study of Why Good People Do Bad Things
• Ethical Reasoning and Dilemmas
• Overview of the TSBPA Rules and Responsibilities
• Research on Unethical Behavior in the Workplace
• Components of Fraud
• Steps for Creating a More Ethical Environment
• Upholding the Standards of a Texas CPA
What are the Standards for CPAs?

Our standards as Texas CPA’s are determined by the Texas State Board of Public Accountancy (TSBPA). They can be found at http://www.tsbpa.state.tx.us/

The TSBPA operates pursuant to the authority of Chapter 901 of the Public Accountancy Act (Act).

901 – the Public Accountancy Act (Act)

- As provided in the Act, the terms “accountant” and “auditor” and any derivations of those terms imply competence in the practice of public accountancy.
- The public relies on that implication of competence when it employs a CPA.
- The Board, in order to protect the public and ensure competence in the practice by the profession, examines, certifies and licenses CPAs and restricts the use of these terms to its licensees.

Why Do We Need Ethics? (Rule 501.51(a))

- To establish and maintain high standards of competence and integrity in the practice of public accountancy
- To ensure that the conduct and competitive practices of licensees serve the purposes of the Act and the best interest of the public.

Goal is to protect the brand!
Why Do We Need Ethics? (Rule 501.51(b))

The use of professional designations carries an implication of possession of the competence associated with a profession.

The public relies on this implication of competence.

This reliance imposes obligations on persons utilizing the professional designation.

These Obligations Include:

- Maintaining independence (in fact and appearance)
- Continuously improving professional skills
- Observing GAAP and GAAS, when required
- Promoting sound and informative financial reporting
- Holding the affairs of clients in confidence
- Upholding the standards of the public accounting profession
- Maintaining high standards of personal and professional conduct in all matters.

Auditing Standards (Rule 501.60)

A person shall not permit his name to be associated with financial statements . . ., unless he has complied with applicable generally accepted auditing standards.

- Statements on auditing standards issued by the American Institute of Certified Public Accountants (AICPA)
- Auditing standards included in Standards for Audit of Government Organizations, Programs, Activities and Functions issued by the United States Government Accountability Office, Public Company Accounting Oversight Board, and in other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures from such pronouncements must be justified.
Accounting Principles (Rule 501.61)

A person . . . shall not issue a report asserting that financial statements are presented in conformity with generally accepted accounting principles (defined by the Financial Accounting Standards Board or FASB) if:

- such financial statements contain any departure from such accounting principles which has a material effect on the financial statements taken as a whole,

unless the person . . . can demonstrate that by reason of unusual circumstances the financial statement(s) would otherwise have been misleading.

Responsibilities to Clients (Rules 501.70 - 501.78)

- Independence
- Receipt of Commissions and Other Compensation
- Contingency Fees
- Integrity and Objectivity **
- Competence **
- Confidential Client Communications
- Records and Work Papers
- Acting through Others **
- Withdrawal or Resignation **

Integrity and Objectivity (Rule 501.73)**

- Maintain integrity and objectivity
- Be free of conflicts of interest
- Shall not knowingly misrepresent facts
- Shall not subordinate his or her judgment to others.
Competence (Rule 501.74)**

- Shall not undertake any engagement which cannot reasonably expect to complete with due professional competence
- Shall exercise due professional care
- Shall adequately plan and supervise
- Shall obtain and maintain appropriate documentation to afford a reasonable basis for conclusions and recommendations

Competence (Rule 501.74) Cont’d **

Competence involves both the technical qualifications of the person and the person’s staff and the ability to supervise and evaluate the quality of the work being performed.

If a person is unable to gain sufficient competence, the person shall suggest to the client the engagement of someone competent to perform the work, either independently or as an associate.

Confidential Client Communications (Rule 501.75)

Information communicated to the person by the client relating to, and in connection with, professional accounting services or professional accounting work rendered to the client by the person shall be deemed confidential. This information may not be voluntarily disclosed unless:
- The client grants permission
- Pursuant to a court order
- Investigations or proceedings under the Act
- Ethical investigations
- In the course of peer reviews
Records and Work Papers (Rule 501.76)

Work papers include but are not limited to:
• Letters of confirmation and representation
• Excerpts of company documents
• Audit programs
• Internal memoranda
• Schedules
• Flowcharts
• Narratives

Records and Work Papers (Rule 501.76)

Client records include but are not limited to:
• Documents in lieu of books of original entry (e.g., listings and distributions of cash receipts or disbursements)
• Documents in lieu of general ledger or subsidiary ledgers
• All adjusting and closing journal entries and supporting details
• Consolidating or combining journal entries, documents and supporting detail in arriving at final figures incorporated in an end product

Records and Work Papers (Rule 501.76)

Work papers developed by the certificate holder are the property of the certificate holder.
Work papers should be maintained for a period of not less than five years from the date of the report unless otherwise required by another regulatory body.
Client records are the property of the client and must be returned upon request. Best practice is to obtain written documentation of the return of records.
The certificate holder may make and retain copies of client records when they form the basis of work done by him.
Acting through Others (Rule 501.77)**

A person shall not permit others, including non-CPA owners and employees, to carry out on his behalf, either with or without compensation, acts, which, if carried out by the person, would place him in violation of these rules of professional conduct.

Withdrawal or Resignation (Rule 501.78)**

• If a person cannot complete an engagement or assignment in compliance with the rules of professional conduct, they shall withdraw or resign.
• If a person withdraws or resigns, they shall inform the client. Best practice is to do so in writing.

Complaint Notice (Rule 501.85)

A person shall provide to the Complainant a statement that says:
Complaints concerning Certified Public Accountants may be addressed in writing to:
The Texas State Board of Public Accountancy
333 Guadalupe, Tower 3, Suite 900
Austin, Texas 78701-3900
telephone (512) 305-7866,
e-mail to enforcement@tsbpa.state.tx.us, or fax (512) 305-7854.
Responsibilities to the Board/Profession (Rules 501.90 – 501.94)

- Discreditable Acts **
- Reportable Events **
- Frivolous Complaints **
- Responses **
- Mandatory Continuing Professional Education **

Moral Character – Statement

- The Board has a statutory obligation (Section 901.253) to determine that any person awarded a Texas CPA certificate is of good moral character.

- Good moral character is demonstrated by the lack of a history of dishonest or felonious acts.

Discreditable Acts (501.90) **

A person shall not commit any act that reflects adversely on that person’s fitness to engage in the practice of public accountancy.  A discreditable act includes but is not limited to:

1) Fraud or deceit in obtaining a certificate as a certified public accountant or in obtaining registration under the Act or in obtaining a license to practice public accounting;
2) Dishonesty, fraud or gross negligence in the practice of public accountancy;
3) Violation of any of the provisions of Subchapter J (Independence);
4) Final conviction of a felony;
Discreditable Acts (501.90)

5) Final conviction of any crime, an element of which is dishonesty or fraud under the laws of any state or the United States, a criminal prosecution for a crime of moral turpitude, a criminal prosecution involving alcohol abuse or controlled substances, or a criminal prosecution for a crime involving physical harm or the threat of physical harm;

6) Cancellation, revocation, suspension or refusal to renew authority to practice as a certified public accountant or a public accountant by any other state for any cause other than failure to pay the appropriate registration fee in such other state;

7) Knowingly participating in the preparation of a false or misleading financial statement or tax return;

Discreditable Acts (501.90)

8) Fiscal dishonesty or breach of fiduciary responsibility of any type;

9) Failure to comply with a final order of any state or federal court;

10) Repeated failure to respond to a client’s inquiry within a reasonable time without good cause;

11) Intentionally misrepresenting facts or making a misleading or deceitful statement to a client, the board, board staff or any person acting on behalf of the board;

12) Giving intentional false sworn testimony or perjury;

13) Threats of bodily harm to a client;

Discreditable Acts (501.90)

14) Public allegations of a lack of mental capacity of a client which cannot be supported in fact;

15) Voluntarily disclosing information communicated to the person by an employer, past or present, or through the person’s employment in connection with accounting services rendered to the employer;

16) Breaching the terms of an agreed consent order entered by the board or violating any Board Order.
Reportable Events (Rule 501.91) **

A licensee shall report in writing to the board the occurrence of any of the following events within 30 days of the date the licensee has knowledge of these events:

1. The conviction or imposition of deferred adjudication of the licensee of any of the following:
   - Felony
   - A crime of moral turpitude (defined as a crime involving grave infringement of the moral sentiment of the community),
   - Any crime of which fraud or dishonesty is an element or that involves alcohol abuse or controlled substances, and
   - Any crime related to the qualifications, functions, or duties of a public accountant or certified public accountant, or to acts or activities in the course and scope of the practice of public accountancy or as a fiduciary.

2. The cancellation, revocation, or suspension of a certificate, other authority to practice or refusal to renew a certificate or other authority to practice as a certified public accountant by any state, foreign country or other jurisdiction

3. The cancellation, revocation, or suspension of the right to practice as a certified public accountant or public accountant before any governmental body or agency or licensing agency

4. An unappealable adverse finding in any state or federal court or an agreed settlement in a civil action against the licensee concerning professional accounting services or professional accounting work

5. The loss of a professional license from another state or federal regulatory agency such as an insurance license or a securities license, resulting from an unappealable adverse finding

The report shall be signed by the licensee and set forth the facts which constitute the reportable event. If the report involves the action of an administrative agency or court, then the report shall set forth the title of the matter, court or agency name, docket number, and dates of occurrence of the reportable event.
Frivolous Complaints (Rule 501.92) **

A person who, in writing to the board, accuses another person of violating the rules of the board shall assist the board in any investigation and/or prosecution resulting from the written accusation. Failure to do so, such as not appearing to testify at a hearing or to produce requested documents necessary to the investigation or prosecution, without good cause, is a violation of this rule. A person who makes a complaint against another person that is groundless and brought in bad faith, for the purpose of harassment, or for any other improper purpose shall be in violation of this rule.

Responses (Rule 501.93) **

- A person shall substantively respond in writing to any communication from the board (includes board staff) requesting a response, within 30 days.
- The board may specify a shorter time for response in the communication when circumstances so require.
- The time to respond shall commence on the date the communication was mailed, delivered to a courier or delivery service, faxed or e-mailed to the last address, facsimile number, or e-mail address furnished to the board by the applicant or person.

Mandatory Continuing Professional Education (Rule 501.94) **

- The purpose of Continuing Professional Education (CPE) is to help ensure that licensees are able to serve the public in a competent manner.
- To receive or retain a license, a licensee shall earn and report at least the minimum mandatory CPE credit hours required for the reporting period.
- A licensee who fails to report will be subject to disciplinary action.
Mandatory Continuing Professional Education
(Rule 501.94)**

- A licensee shall complete at least 120 hours of CPE in each three-year period, and a minimum of 20 hours in each one-year period.
- An instructor may receive up to 20 hours credit for preparation and presentation.
- An author may receive up to 10 hours credit (a special exemption may be made for 10 additional hours).
- 50% of the training must be technical.
- A licensee must take a four hour, board approved ethics course every two years.

Questions on the Rules???

Contact the Board:

Phone: (512) 305-7866
Fax: (512) 305-7854

E-mail: enforcement@tsbpa.state.tx.us

Ethics Quiz

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Our Goal as CPAs

- To achieve and maintain the highest standards of ethical conduct through the core values of the profession and the rules of professional conduct
- The public looks to us as a standard of ethics and integrity
- What are we doing today in our personal life and in our organizations to create an ethical environment?
- We may not be able to make people change their values; however, we can help them see the wisdom of changing their behaviors

It's a Matter of Choice

- Every moment is filled with situations and we have to make choices
- Those choices build our character

What choice will you make?

Questions?

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